

Electronic Monitoring and Probation: Offender Rehabilitation and the Reduction of Prison Populations

7th European Electronic Monitoring Conference

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Conference Report

by

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Introduction

The commercially sponsored EM conferences which began more than a decade ago (1998, thereafter in 2001, 2003, 2005, 2007, 2009 and 2011) are unique within the CEP precisely because they have taken place on a regular bi-annual basis. No other topic in CEP receives quite such a level of sustained attention. This reflects the fact that a) EM has seemingly profound implications for the community supervision of offenders, b) that the technology is constantly being refined and upgraded and c) that new countries – including some new members of CEP - are constantly showing interest in it. There are always new audiences for this topic. Because of the unique combination of commercial, political and professional expertise and experience which the CEP-EM conferences now bring together they have increasingly attracted international attention outside Europe, and have been attended by representatives from as far afield as Australia, Korea and South Africa, as well as the USA.

Implicitly at least, all six previous conferences have been concerned with existing and possible relationships between a) probation and EM as strategies for supervising offenders and b) between probation services and the commercial organisations which make the technology and in some countries deliver the service under contract to government. This seventh conference was focussed quite specifically on the integration of EM and probation as supervision strategies. It aimed to make clearer than on previous occasions the contribution of EM to core probation concerns such as rehabilitation, reoffending, resettlement, public protection and the future of the Service itself, and represented CEP's deep commitment to seeing EM develop in accordance the standards and values of good probation practice.

This report (in English, Spanish and Portuguese) will summarise the opening speeches, plenaries and workshops which were presented at the conference and draw out key themes and issues. Space precludes truly comprehensive summaries, and where possible the report should be read in conjunction with the speakers own PowerPoint presentations, which are available on the CEP website. We have attempted in the way we have structured the report and used subheadings to create a document which illuminates EM and probation in its own right. In the main we have edited and abbreviated the arguments we heard there, usually to avoid repetition, but sometimes, for the sake of clarity, we have elaborated on some points more fully than

they were elaborated at the conference itself. We are grateful to the workshop leaders for the combined summaries of what took place in the three repeated workshop sessions.

Opening Speeches

Dr Alberto Sousa Martins, The Minister of Justice of Portugal was honoured to be hosting the 7th CEP EM conference and emphasised the extent which Portugal had already recognised the worth of EM as an instrument of “social reinsertion”. He outlined its past and present uses in Portugal, and anticipated its future use in the context of a response to domestic violence. It was clear from Portugal’s own experience, he said, that EM raised “complex issues” which he hoped would be explored at the conference.

Mr. Marc Ceron, President of CEP welcomed the participants to the conference and thanked the Portuguese Director of Social Reinsertion for hosting this conference, and the technology/security companies for sponsoring it once again – G4S, ElmoTech, Serco and Guidance monitoring. He emphasised the still evolving uses of EM inside and outside the criminal justice system – and affirmed the need for more research into possible forms of best practice. He hoped that the conference would contribute to

- a clearer view of the issues entailed in combining EM and probation. 0
- an eventual improvement to the European Probation Rules on EM
- increased knowledge of new technologies and their potential
- up-to-date knowledge of relevant research

The Development of Rehabilitation

Ms Josefina Castro’s (Vice Director, School of Criminology, University of Porto) paper (read in her absence by Ms Susana Pinto) opened the conference with an overview of rehabilitation, a concept of central concern to Europe’s probation services, noting that it remained an important narrative within contemporary penal policy in all countries, but emphasising the varying degrees of commitment to it and the volatile political context in which survives. She identified three phases in the unfolding historical narrative of rehabilitation in the West – which she called “foundation”, “crisis” and “salvation”. Rehabilitation was originally conceived in the 18th centuries as a moral good in its own right, a way of drawing out the latent “better qualities” of people who had broken the law, which would then enable them to become law-abiding and to make a useful contribution to society. In the 19th and early 20th centuries rehabilitation came to be seen as a progressive challenge to the older penal philosophies of retribution and deterrence. The moral emphasis on caring for and supporting offenders originally had religious roots but was later augmented and even displaced by insights from psychology. The philosophy of rehabilitation remained viable throughout most of the twentieth century, while the methods for achieving it diversified – counselling, social work, psychology and psychiatry. In those countries which had it, probation was understood as a primarily rehabilitative practice, in which “care and control” could be constructively combined.

In the 1960s and 1970s, rehabilitation underwent a period of crisis, starting first in the USA. Politicians and activists of the left began to question its ethical superiority over other penal philosophies, particularly where it was used to adjust offenders to intolerable social conditions in a socially unequal society, or to imprison people for longer periods than “justice” warranted. Robert Martinson’s meta-analysis of available research on the effects of various penal interventions – both rehabilitation and punishment – found (in terms of standard reconviction measures) that rehabilitation was neither better nor worse than other interventions. Its claim to moral and empirical superiority was not justified. Politicians of the right simplified Martinson’s message as “nothing works”, and in the USA spearheaded a return to retributive and deterrent – and eventually incapacitative – sentencing.

Established probation services felt this “crisis of rehabilitation” keenly in the 1980s: their claims to being effective at rehabilitation had been undermined. To a greater or lesser degree (the emphasis varied in different countries) they were forced to justify their existence more than they had needed to do in the past. There could be no simple return to past principles and in reinventing themselves in ‘the culture of control’ probation services had to take account of all four of the philosophical and political responses to the “crisis of rehabilitation”:

- the renewed credibility of punishment in community sanctions
- the emergence of restorative justice and concern for crime victims
- the emergence of situational crime prevention eg CCTV (and surveillance)
- the search for “what does work” to bring about rehabilitation

The latter response seemed to offer “salvation” to the idea of rehabilitation. New approaches to supervising offenders based on cognitive behavioural psychology appealed to many probation services because they seemed to give a firm scientific basis to the view that offenders’ behaviour could be changed for the better. But in the 1990s and in the 21st century – the era that came to be called the “risk society” - it became impossible for probation services to claim that rehabilitation was a principle above all others in the way that it had been for their organisations in the past. Rehabilitation remained important, but lost its moral supremacy in the penal field and became only one among several pragmatic responses to crime. Rehabilitative practices could now be used alongside punitive and controlling elements in supervision programmes and were no longer ends in themselves. This development took place alongside a growing concern with cost-effectiveness and the pursuit of measurable results, which as Professor Todd Clear in the US has warned, can distort the kind of supportive work that probation services should be doing with offenders, some aspects of which are more measurable than others.

EM emerged and developed in the “crisis” and “salvation” phases of rehabilitation, but has never had a clear penal identity. It still has an ambivalent relationship to prevailing penal philosophies. The technology is not in itself rehabilitative but it can be embedded in different legal frameworks and types of programme, with different penal purposes. England and Wales used it purely as a stand-alone punishment and, initially, to threaten its probation service which the government at the time believed to be too wedded to social work values. Sweden, on

the other hand – who introduced the first national scheme in 1996 – incorporated EM within their probation service and used it as a form of control within an overarching rehabilitative programme.

Electronic Monitoring and Rehabilitation

Professor Peter Van der Laan, (Law Faculty, VU University, Amsterdam) told the conference that as a young academic in 1988 he had been intrigued by the pioneering experiments in EM by the Harvard-based Schwitzgebel brothers in the 1970s, and by the first practical uses of EM made by Judge Jack Love in New Mexico in 1982. He had believed then that EM had potential to add a useful element of control into probation practice. At the time, not many other people in Europe thought in the same way. EM was seen by many as an unwelcome development, and was resisted. In the late nineteen nineties Professor Van der Laan had himself been part of a Council of Europe Committee which had sought to impose quite careful constraints on EM in the European Probation Rules. This scepticism, he had come to realise, was justified because evaluations of EM have not shown any spectacular benefits in terms of reduced recidivism or reduced prisoner numbers, and have raised the serious possibility of net widening and increased costs. If EM is not actually used to reduce prison populations it is not cost-effective. Even the Campbell Consortium meta analysis of worldwide EM research does not claim great results for it, pointing out that far too few methodologically sound studies have been undertaken, and that there remains confusion, uncertainty and disagreement as to how EM should best be used. Political and commercial support for EM may be greater than research evidence warrants, which could be worrying for probation services. EM's contribution to rehabilitation still remains unclear, and the most recent wave of EM research (on operational issues as well reconviction) sends mixed messages:

- GPS is not superior to RF in terms of reduced reoffending, but operates differently
- Electronic monitoring is not intrinsically superior to other diversion from prison programmes
- There is some suppression of offending during monitoring, but not thereafter
- There is a temporary increase in public safety
- Supervision with electronic monitoring does seem to function as intermediate sanction between prison and community supervision
- Few studies overall, whose methodological quality is limited

Electronic Monitoring and Resettlement

This part of the conference comprised two papers, one from **Dr. Ioan Durnescu (Lecturer in Criminal Justice), University of Bucharest** who provided an overview of the use of EM in Europe, and one from **Professor Hans-Jorg Albrecht, (Director of the Max Planck Institute for Foreign and International Criminal Law)** who outlined a recent study of the use of EM in the context of resettlement in Germany. The conference's understanding of EM in Germany was deepened by a most lucid presentation by **Ms. Silke Eilzer (Hessian Ministry of**

Justice) which, although it was not focussed on resettlement as such, will be reported here.

Dr Ioan Durnescu began by offering a definition of EM:

“the use of remote surveillance technologies to monitor the presence, absence or movement of offenders during the community element of their sentences or orders” (Nellis, 2007: 115)

It is indeed important to define and characterise EM as a form of surveillant control in the first instance, not simply as punishment. When considering how to use it with offenders and defendants, the key question then becomes – what penal purposes can surveillance serve? What and how can particular types of EM (rf technology, voice verification, or GPS) contribute to punishment and control, or indeed to rehabilitation? Dr Durnescu indicated that across Europe EM was used a range of different ways, at different points in the criminal justice process. The detail of this is best examined directly from his presentation, available on the CEP website. Some ways of using EM are more common than others, and while its use in resettlement is widespread, other uses are also common:

- as an alternative to pre-trial detention,
- as an obligation attached to a community sanction
- as a penalty for breaching other conditions,
- as an alternative to custody (execution modality),
- as an obligation for temporary release,
- as a condition for pre-release,
- as an obligation after release,
- others (e.g. domestic violence victims, asylum seekers etc.)

Dr Durnescu concluded from his country-by-country analysis that as EM expands in Europe it is tending to become a stand-alone penalty. This may seem like bad news for those who wish to see it more integrated with probation, but as there is some evidence of a crime-suppression effect even when it is used alone, its use in this way, say as a form of pre-trial detention, cannot be discounted. He welcomed EM’s experimental use in the context of rehabilitation programmes and public protection arrangements, despite – as yet - the absence of clear evidence of what it actually contributes to rehabilitation. While open to its use its use as mere surveillance (in pre-trial detention, with unconvicted defendants who might otherwise have been remanded in custody, he worried that EM could be used in purely punitive ways, as a way of enforcing very intensive periods of house arrest (all day) for long periods of time. This was not to be welcomed. He noted too that in Germany as well as in England and Wales the consent of the offender to EM was not required and that this, like the use of EM as a stand-alone punishment, was in direct contradiction of the European Rules on Community Sanctions and Measures.

He concluded by saying that EM should be developed in terms of carefully thought out pilot schemes in which the objectives of EM are carefully conceptualised

beforehand. It should not be used haphazardly. In any country its introduction should be preceded by information campaigns with judiciary, politicians, practitioners and the general public, so that each is encouraged to think about its purpose and implications. Criminal law in each country should state that as far as possible EM should be linked to rehabilitative purposes. Cooperation between state agencies and the private sector in the provision of EM should be transparent and corruption-free. He commended the use of EM in Belgium, Denmark, Norway, Portugal, The Netherlands, Estonia and Sweden as examples from which other European countries could usefully learn)

It is well known that Germany has been a reluctant user of EM, and in that sense it is, as Professor Albrecht said, something of an exception in Europe. From 2000 it was piloted in Frankfurt on Main, going state-wide across Hesse in 2007, the only state in Germany to use it so far. 864 offenders have been subject to it, with 95-100 on the programme at any given time. It is a tightly integrated programme run by the Probation Service, imposed on offenders (with their consent) whose are considered by courts to be too unreliable and chaotic in their lifestyles to otherwise benefit from community supervision. Their offences range from robbery, bodily violence to traffic offences. EM can be used in four legal contexts - that of a probation order, a suspension of an arrest warrant, parole and what in Germany is called “supervision of conduct” order. The majority of cases – over two thirds – are probation cases. Offenders are monitored 24/7, and breaches are tightly enforced. The costs of EM are 33.83 euro’s per day as opposed to 96 euro’s per day in prison.

Professor Albrecht believes the reasons why EM has not been widely used in Germany are clear and cogent. There was strong opposition to it from social work and probation organisations in the 1990s, none of the political parties were keen on it, and the legal profession disliked it. The arguments they collectively used against EM have remained compelling until the present time, namely

- that if more social workers were employed to undertake supervision there would be no need for EM technology at all.
- that trained professionals were more effective change agents than technology.
- that EM is primarily about surveillance and social control, and as such, at odds with social work.
- that, as surveillance, EM raises questions about data protection.
- that the prison population can be managed effectively by the existing range of non-custodial measures, including fines

Much has been learned in recent years about what good practice in resettlement and re-entry entails from studies of a) the life course and desistance, b) offenders motivation and sense of agency, c) the acquisition of human and social capital; d) reflections on the kind of public protection arrangements needed for dangerous offenders and e) the impact of high numbers of released prisoners being concentrated in particular geographical areas. In terms of responding to released offenders, through care (beginning the preparation for release while still in prison) and practical assistance with employment, housing, substance abuse, financial problems, family relationships and community/ neighbourhood relationships are all

important. Surveillance has a place alongside such measures, especially in regard to high risk offenders.

Professor Albrecht has studied the impact of EM on recidivism in Hesse, comparing a) a group of offenders released on a suspended prison sentence with EM to b) a group of offenders on a suspended prison sentence with probation, and c) a group of offenders subject a prison sentence. He concluded that EM does help in adding structure to the offender's lives, in particular that it aids compliance

- by establishing strict spatial and temporal routines
- by permitting – through continued contact with social networks - the acquisition of human and social capital (opportunities that would be lost in prison)
- by influencing the offender's sense of agency and motivation.

These findings, though not derived from a study of resettlement as such, could nonetheless be applied in such a setting. This is timely. Ms Eilzer told the conference that a new German pilot will shortly begin in Baden-Württemberg using RF technology, which will have a resettlement dimension. EM will be used as a possible alternative to a prison when a fine is unpaid, during temporary release from prison, and to monitor early release from prison to half-way houses. In addition, because the European Court of Human Rights has recently ruled against the use of preventive detention for high risk sex offenders, a GPS programme will be introduced to support resettlement for such offenders, which will not require their consent.

Reoffending On and After Electronic Monitoring

To policy analysts in a many countries, the most crucial question to be asked about EM is whether it reduces reoffending. It is indeed important (if not the only kind of question that matters). Theoretically and empirically, reductions in reoffending are always a difficult thing to show with precision, especially so in relation to EM, which can be used in many different ways. Several speakers at the conference pointed out that, to date, there are few methodologically sound studies of reconviction, although a consensus is emerging that there is a crime suppression effect while offenders are on EM, if not necessarily afterwards. Drawing on research she had undertaken in France with her colleagues René Lévy and A. Benaouda, **Annie Kensey, (Research and Statistics Director, French Prison Administration)** presented the findings of a recently undertaken study. She began by clarifying the kind of conceptual questions that must always be asked before embarking on a reconviction/reoffending study:

- which population are we looking at (prisoners; those on community sanctions; all offenders)?
- what are we actually measuring (rearrest rates; reincarceration rates)?
- length of the follow-up period to evaluate the rate of recidivism (1 year?, 5 years?, 20 years?)

Dr Kensey presented her findings, measuring recidivism in a number of different ways, in a series of graphs which are best studied in their own right (on the CEP website) rather than summarised here. We will duplicate only one of them, which compares reincarceration and reconviction rates for prison and a range of community sanctions, including EM, over a 5 year period.

Initial Sanction	Reincarceration rate	Reconviction rate
Prison sentence	61%	72%
Suspended sentence with community service	41%	59%
Community service	34%	58%
Conditional Suspended sentence	32%	52%
Electronic Monitoring	23%	42%
Full suspended sentence	19%	39%

A table of this kind blurs many kinds of difference in the way that EM might be used. Different uses of EM – different combinations of EM with other measures and on different types of offenders - will have different effects on reconviction.

Electronic Monitoring and Public Protection

The use of EM in “public protection” is not primarily an issue of reconviction, although if that were a consequence of its use in a “public protection” context, that would be an additional and useful benefit. EM demonstrably increases levels of control over offenders that merely human supervision cannot achieve, at least not without massive cost. **Mr. Barry Snelgrove (Senior Contracts Manager, National Offender Management Service)** and **Ms. Clare Wiggins (Public Protection Team, National Offender Management Service)** from the England and Wales Ministry of Justice outlined developments in a jurisdiction where thinking on the concept of “public protection” and the use of EM within it has, to date, been most extensive. Concern about public protection arose a decade ago because of a perception that the management of sexual and dangerous offenders was ineffective in England & Wales following the abduction and murder of an 8 year old girl by a known sex offender, and because of failures of information sharing between local police forces (about a suspect individual who moved about the country) in respect of the murders of two other children. Criminal justice agencies in general – not just the police – seemed unclear about their rules and responsibilities. The result of this concern was the establishment of Multi Agency Public Protection Arrangements (MAPPA) in each local area, bringing together all relevant agencies to manage higher risk sexual and violent offenders, to protect victims and to prevent further victimisation. Multi Agency Public Protection Panels use three different risk levels in their work with

offenders, each requiring different patterns of response and commanding different levels of resource.

In the twelve years that EM has been operating in England and Wales there has been an increase in the use of EM from a few hundred in pilot areas to 23,800 cases at any one time. In the ten years that MAPPA have existed EM has been used for targeted higher risk cases for added protection, although 71% of EM curfew requirements continue to be stand alone low risk punishment (plus 14% of early release cases).

An example was given of an accidental rather than a planned use of EM in the city of Bristol, where a tagged and curfewed offender committed a brutal daytime murder. He was able to leave the crime scene, on a bike, without being identified. He was interviewed as a suspect, but no evidence seemed to connect him to the murder. The monitoring company, however, were able to retrieve records of the suspects movements, because the signal from his tag had been picked up by a number of home monitoring units that just happened to be in the homes of other offenders in the vicinity of the crime scene. This “accidental tracking” proved that the suspect was at the crime scene. The electronic evidence was accepted in court, and he was sentenced to 15 years in prison.

There are a range of methods used to achieve public protection, including other technology, eg polygraphs and it is understood that no one technique alone is adequate on its own. Meetings needs and providing support are as necessary to reducing risk and surveillance and control. England and Wales will continue to use EM for low risk punishment which research shows is cost-effective and for ‘prolific’ offenders where sharing of information and technology manages offenders more effectively.

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The Workshops

Workshop 1. Integrating EM into Social Work and Probation

This workshop compared the experiences of Portugal and Belgium on the implementation of EM. **Ms. Susana Pinto (EM Coordinator, Porto, Portuguese Probation Service)** explained the uses in Portugal, placing particular emphasis on the effort to incorporate the principles, culture and strategies of the Probation Service to the department in charge of implementing EM. She highlighted the importance of human intervention alongside the use of technology, noting that good results depend fundamentally on how probation officers make use of it. In other words, having a very sophisticated technology is not itself enough to guarantee good results.

EM was first introduced for over 16 year olds in Portugal through the Criminal Procedure Code reform in 1998 in order to relieve overcrowded prisons. EM may now be used as a pre-trial/bail measure, as well as a community sentences and also in

the context of domestic violence. In respect of bail, EM-house arrest can be used as an alternative to incarceration when the penalty for the offence committed is less than three years in prison. The use of electronic surveillance in this context has increased significantly since December 2004 but in recent years it has stabilized, achieving compliance rates of around 92%.

In the community sentences context, EM is also used as a substitute for prison sentences of up to two years. It is currently used less than it was in mid-2008, compliance rates are still remarkably high (96%). Regarding domestic violence, a new pilot programme using RF technology, will monitor the prohibition of contact between aggressors and victims. Since June 2008 EM has been used in Portugal as a way of granting parole up to one year earlier than would otherwise have occurred. Compliance rates on EM-parole are very high (99%) and its use has remained fairly stable. In all cases the use of EM aims to achieve both assistance and control, and it is particularly important to support and help individuals during their period on EM in to avoid violations and breaches.

In the second presentation **Mr. Pedro Ferreira Marum (Director of NCEM)** described the role of the *Maisons de Justice* and the *Centre National de Surveillance Electronique (NCEM)* in the development of EM in Belgium. EM has been introduced to help incarceration rates and to help offenders maintain their social and family ties and their occupational activity. This is intended to facilitate social reintegration, fight recidivism and also help reduce the economic costs of imprisonment. When considering an application for EM Belgian courts generally require a report (*enquête sociale*) which contains information related to the living conditions of the offender, his attitude towards EM, the agreement of those people cohabiting with the offender as well as their daily activity and family context. The *enquête sociale* also takes account of the victims viewpoint, the nature of the offence and the risk of recidivism. Once the judge agrees to use EM, the *Maison de Justice* sends the report to the *CNSE* so that the probation officer can initiate contact with the offender to design a program-schedule.

Workshop participants discussed ethical and legal questions relating to EM, the period of time over which an offender might be under house arrest, the offender's perception of control, questions of enforcement and the nature of the court's decisions regarding breach.

Workshop 2. EM and Sex Offender Management

The way to deal with the resettlement of sex offenders has stirred increasing interest among the public and penal authorities. This workshop, conducted by **Ms. Soraya Beumer (Area Manager, Dutch Probation Service)**, **Mr. Andy Homer (Serco)** and **Ms Linda Johnson (Serco)** compared EM's place in sex offender management in The Netherlands and England and Wales. Although the administrative structures are different in the two countries the agencies involved tend to be the same,

and the operational issues similar, as is the public and media debate. A key difference is that recent policy changes in the Netherlands have made it possible to use GPS-tracking for both medium and high-risk offenders. GPS is not used in England and Wales for sex offenders (although see the report on Workshop 3 below), where the supervision of high-risk offenders is dominated by localised Multi-Agency Public Protection Panels (MAPPP). The speakers reviewed the general development and use of EM with sex offenders, the various types of systems available and the benefits they can bring. Rf technology is still considered useful for monitoring inclusion zones (offender's homes) and while GPS can do this as well its main advantage is its ability to monitor exclusion zones.

Special emphasis was placed on the importance of good coordination between operators to effectively manage the risk posed by sex offenders. In the Netherlands, partnership between Police, Probation, Public Prosecution and other public administration services is considered an essential strategy in risk management. The aim is to create a strong and close network around the offender, to ensure a better view of the immediate risks and to identify the best way to manage them in particular cases, which might include EM. Public prosecutors have no role in offender Management in England and Wales, whereas in the Netherlands they rather than probation officers make decisions about responses to breach (using information from probation)

The intensive management of very high risk offenders is only possible for a few criminals since the resources available are limited. It is therefore important to detect and assess those sexual offenders with higher risk of committing new serious offences, and to monitor progress and change among all those under supervision, so that risk levels can be altered accordingly. It is also necessary to design exit strategies and mechanisms which gradually reduce the level of intensity of interventions. There is always a need to evaluate the effects of the programme.

Workshop 3. The Use of GPS Tracking in Mental Health and Police Settings.

Ms. Sara Murray, CEO of Buddi explained that she started her GPS tracking technology company, having once had the experience of temporarily losing her young daughter in a supermarket, and being unhappy with the staff's response to finding her. She had initially envisaged using the technology in both a childcare and a healthcare market – people with Alzheimers - and had indeed made inroads into the latter. In terms of criminal justice, she acquired a contract with the South London and Maudsley (SLaM) National Health Service Trust to monitor the temporary release and home leave of high risk prisoners undergoing psychiatric treatment in a secure hospital. Some years previously a patient had escaped during escorted leave for medical treatment at another hospital, and while at liberty had murdered someone. Tracking offered SLaM a solution to this, but only on condition that offenders wore a secure, as unremovable-as-possible bracelet – which, using leather and steel, Buddi was able to supply. This makes it different from the cuttable plastic tags used

elsewhere in British EM schemes. Buddi's tags are also fitted with a buzzer/vibrator which can signal to the absent offender when he is due to return to the hospital. The introduction of these tags have reduced the number of absconds, and when patents have gone missing, or been late returning they have proved to be more efficient and effective ways of finding them – not least reducing the expensive use of police helicopters.

Buddi has a further contract with the Hertfordshire Police Force, who, as **Detective Inspector Stuart Campfield** described, use GPS technology in the context of a special police-probation project for persistent and prolific offenders (mostly burglars and vehicle crime). These offenders are at high risk of *frequent* re-offending, if not at high risk of *causing great harm*. The offenders are subject to a court order which requires their participation in the project (which comprises a number of rehabilitative programmes) but tracking is not formally part of this order, and was introduced at the police's own discretion. Offenders are asked to wear the GPS tracking device voluntarily - to prove to the police and to their families that they are indeed serious about desisting from crime, and to protect themselves from suspicion and frequent attention from patrolling police officers. A surprisingly large number have volunteered – 40 out of 60. Their movements are constantly tracked, although not in real-time, and then tallied with known crime schemes. This may either incriminate or exonerate them, by showing their proximity to or distance from the offence site. In the past, without GPS the police may simply and randomly have rounded up the usual suspects whenever a crime occurred – now they have a way of ruling out some suspects, which saves on resources. Once they are convinced that some offenders are desisting they subject them to less street-level scrutiny, an often intrusive form of contact from which the offenders themselves are happy to be free. Some of the offenders on the project are subject to EM-curfew requirements as part of their court order, and if they volunteer for tracking may well be wearing two ankle tags. The cost of the voluntary GPS tracking is £200 per month, as opposed to £500 per month for offenders of the project who do not volunteer.

Unsurprisingly, discussion in the workshop focussed on the unremovable strap, the use of GPS tracking on a voluntary basis and the fact that neither the SlaM nor the Hertfordshire projects are officially run by the Ministry of Justice. There has hitherto been an explicit understanding in England and Wales that straps should be cuttable in the event of emergencies – (being caught on machinery at work, or on motorbike engines – and examples were given where such things had occurred. Buddi's straps can be cut, but only by a heavy duty bolt cutter – even if the offender had one, removing the strap would take time. While the point was taken that consenting voluntarily to using GPS was helping offenders to show that they were indeed desisting in ways that might not otherwise be possible for them - police officers are notoriously suspicious of offenders claims to have changed for the better – there was undoubtedly some unease about it, because GPS-tracking has traditionally been associated with the most demanding forms of compulsion in EM and mostly focussed on high risk offenders. There was general agreement that the project needs to be properly researched.

Workshop 4. Research on Compliance with EM

Dr Anthea Hucklesby (Reader in Criminology, University of Leeds) and **Ms Claire Sims (Communications Director, G4S Care and Justice)** reviewed research on compliance with EM and described an ongoing project in England and Wales aimed at increasing compliance levels of monitored offenders, using the findings from earlier research undertaken on behalf of G4S. It explored the role and utility of punishment and reward in encouraging compliance of sentences, and the need for different administrative and judicial responses to violations, depending on their severity and type.

Dr Hucklesby's research has identified those factors linked to compliance of with EM. Methodologically, it relied on observation, analysis of administrative data and interviews with offenders and monitoring officers. Her research revealed that while violation rates are quite high, many of these violations are relatively minor (time violations and equipment tampers). There are nonetheless cases in which the subject was absent for the whole curfew or cut off the tag at least once. Interestingly, most of the violations, of whatever type, were not pre-planned and were more the result of chaotic lifestyles. Minor violations should not be over-reacted to if compliance is to be sustained over the length of the order. There is an important distinction between short-term and long-term compliance, and in the early stages of an order an offender may well test out how effective it is. Attitudes towards EM may be affected not just by feelings about the technology itself but by more general attitudes of respect or disrespect towards the criminal justice system, and by the degree of desistance to which the offender is committed.

Both the presenters and the participants in the workshop expressed the need to develop mechanisms which motivated the subject to comply with EM, whether through family support or via consistent collaboration between the agencies involved in enforcing the sentence

Workshop 5. New Countries Using EM

Several sessions during the Conference referred to the process of expansion and consolidation of EM worldwide. This encompasses both countries which are incorporating EM technology in their criminal justice systems for the first time, and also countries which had already used EM deciding to extend into new areas, or introduce new areas such as GPS

The workshop specifically devoted to new countries using EM comprised presentations from Latin America (Colombia) and Western Europe (Bulgaria and Poland), by **Mr. Luis Alirio Olivares Quintero (Coordinator, CME INPEC, Ms Nadya Radkowska (Ministry of Justice, Bulgaria), Mr. Boris Goncharov (G4S) and Mr. Milosz Franaszek (COMP – a private contractor)** respectively. All these countries have very high rates of imprisonment and expect EM to help them reduce

this and, by extension, to diminish the negative impact that imprisonment has on individuals. EM was defended by all three speakers as an appropriate mechanism to diminish the social and human costs of incarceration by allowing the offender to remain with and support his family, and to maintain work and training activities. Columbia has implemented EM very rapidly on 4500 offenders in under 2 years, using both RF and GPS technology. Bulgaria ran a small pilot project in 2010 and the presenters discussed what they had learned about the experiences and responses of offenders, ways of managing stakeholders in the project and using the media. The Polish presentation specifically addressed the importance of information technology architecture in facilitating collaboration between the private and public sectors

The discussion focused mostly on the need for an adequate legal framework to determine the circumstances under which EM may come into play. The importance of persuading the courts and judges as to the suitability and having confidence in these devices and having the support of wider stakeholders and the media was also stressed.

Workshop 6: The Use of EM with Juvenile Offenders

This workshop (conducted in French) compared the experience of implementing EM with juvenile offenders in France and in England and Wales.

Mr. Eric Martin (Vice President Juge des Enfants) offered a legal overview on the criminal liability of minors in France. Unlike other countries, French law does not distinguish sharply between offenders above and below the age of 18, which means that any child can be considered responsible for a crime. However, in practice, the child or young person's age will always be taken into consideration at the sentencing stage. As EM can only be imposed instead of a sentence of imprisonment, only juveniles over 13 years old can be made subject to it.

Although EM is now fairly widespread in France, its use is less common with juvenile offenders. However for the last eighteen months the Juvenile Court in Caen has actively sought to prevent juveniles from entering prison and to promote an educational project of integration in the community using EM. The Court has had to overcome some ideological resistance to the idea and to establish an operational program involving the minor's parents. Parental involvement is very important to management of the sanction, in respect of enforcement and any other requirements, but in many cases the parents themselves show significant educational deficiencies which jeopardize the success of the programme. The evaluation of the project seems to be quite positive: fourteen juveniles participated in the program over a period of twelve months, but only one case failed. The "protection judiciaire de la jeunesse" which acts as a probation service for the under 18s) is more involved in this measure than in others, which may help to explain this success rate.

Although working mostly on the French project, **Mr. Heinz Schrey (Management Consultant with Guidance Monitoring)** explained that in England and Wales EM can be used for juveniles between the ages of 10 and 17 as an

alternative to imprisonment in the context of bail (30% of cases), as well as during the execution of a Community order (56%) and even during early release (14%). When used with juveniles, EM is intended not only to reduce the growing prison population (and to lower costs,) but also to reduce recidivism and minimise the violation of any requirements imposed. EM helps to provide stability to the sometimes chaotic lifestyles of children and juveniles, and also to preserve such protective factors as may also operate in their lives. The presentation stressed that the programme has actually reduced the youth population in prison (-14% between 2005 and 2010), while the adult prison population has increased over the same period. However, the number of breaches has increased over this period and the preventive work has regrettably decreased because of a lack of resources.

Using EM for juveniles poses questions that do not arise when considering EM for adults. Workshop participants questioned whether juveniles fully understand that EM is a sanction or if, on the contrary, they might perceived it as a reward or a trophy. They also discussed the best way to combine the sanction with the protection and education of the young offender, as well as ways of preventing recidivism. The workshop stressed that the success of the measure relies on the cooperation of parents and family and on the maturity of the young person. There was a clear agreement that a vulnerable young person needs the support and assistance of social workers, and that EM must therefore always be integrated into a more comprehensive support program.

Workshop 7. EM, Domestic Violence, Offenders and Victims

Levels of interest in the use of EM to protect victims of domestic violence were high at the conference in general, and a specific workshop was focussed on this. The Spanish experience, developed since 2006 following the adoption of various legal reforms aimed at providing greater protection in this context, particularly to women abused by their intimate partners, served as a starting point for discussion.

Dr. Nuria Torres-Rosell (Lecturer in Criminal law, University Rovira I Virgili, Tarragona) highlighted the various areas where the 1/2004 Act (*Law for the integral protection of women victim of gender violence*) and the new reforms of the Penal Code (*5/2010 Act*) foresee the use of EM to control the completion of restraining orders. The enforcement of orders prohibiting the batterer from approaching the victim - particularly when the victim is a woman (wife, partner or ex-partner) - is mandatory in the Spanish criminal system, with no possibility of judicial discretion to vary the measure in particular cases. Police forces do generally enforce restraining orders but the recent introduction of EM provides a new means of doing so.

Currently, and after an initial experience in Madrid, EM for the protection of victims of gender violence has spread throughout the Spanish territory. The technology requires bilateral GPS tracking devices (one for the offender, one for the

victim) which allows real-time detection of any approach by the offender to the victim, beyond the minimum proximity decreed by the judge. **Snr Javier Garcia (Telefónica)** and **Ms Tami Mazel (ElmoTech)** stated in the workshop that the system can detect not only the approach of the offender to the address or workplace of the victim, but also directly to her, since the mobile GPS device tracks her position wherever she is. Thus, when the aggressor penetrates the exclusion zone designated by the court order, the device sends an immediate alert to the control centre, which communicates itself immediately to the offender (recommending him to change his direction) and to the police and the victim, allowing a rapid police intervention.

In the two years the project has been active there have been no aggressions among the couples monitored. This result reinforces the idea that EM may help avoiding reoffending and protecting the victim. However, the contributions from the workshop participants pointed out the importance of predicting the risk of reoffending among potential monitoring subjects before concluding too readily that the device exerts real deterrent effect. In addition, the perceptions of victims, perpetrators and other stakeholders, such as police and judges, were also discussed. Participants wondered if the victims felt the devices were imposed on them and whether their perception of security increased or whether the triggering of alarms generated more anxiety. The opinion of police officers was of interest, since their activity seemed to increase significantly due to the high number of alarms generated daily by the devices. In research terms, the opinion of the judges would be of interest because they both decide on the application of the device and the breach of the order (which would involve the return of the offender to prison). Finally it was agreed that there is a need to combine technology with more adequate attention to victims and appropriate treatment for offenders.

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The Costing of Electronic Monitoring

On the closing day, **Mr. Peter Rogers (Project Leader, National Offender Management Service (NOMS), England and Wales)** explored a subject which has been long overdue for discussion in a CEP-EM conference (and which may help gathering data in future questionnaires) – the costing of EM. It is clear from the way respondents answer the CEP’s questionnaire that identifying the costs of EM even in particular countries, let alone in a way that enables comparisons between countries remains difficult. What actually counts as a cost of EM – and how do we identify any financial savings that may be made - or not - from its use.

NOMS had established a project on specification benchmarking and costing of a range of community sanctions, of which EM was one. These terms are defined as follows:

- Specification – what are the outcomes and outputs required of a specific service?
- Benchmarking – what is an efficient and effective way to deliver the service?

- Cost – what should the cost of each component of the service, and the total cost, be?

Mr. Rogers analysis touched on the question of integration. EM in England and Wales is largely used as a stand-alone punishment for low risk offenders, most of whom would not have been at risk of custody. Nationally 71% of EMs use takes the form of stand-alone curfew orders, with variations across ten regions ranging from 53% to 88%. It is largely a measure in its own right, not a tool used by probation officers. Many in the probation service probably prefer it this way, and still don't see much of a connection between EM and probation. "Tagging is now accepted but not totally embraced by probation" Mr. Rogers said, adding that in England and Wales it cannot be said to have been integrated with probation in any meaningful way except in a small number of cases. Although both administered from within the same government department policy and practice in EM and probation had developed on "parallel tracks".

On the basis of his analysis, Mr. Rogers concluded that the cost of using EM in England and Wales for a 90-day curfew was 1199 Euros. This is comparable to 110 days of community service, and significantly cheaper than a comparable period imprisonment.

EM is cost-effective if it replaces prison use, cost-neutral if it displaces community service but not – as it is – if it is used to replace fines, which otherwise cost little to administer and actually raise revenue for the government. Given the large proportion of low risk offenders who are subject to stand-alone EM curfews in England and Wales (who would not have been at risk of custody), some of whom may otherwise have been given fines, it cannot be said that the country's large scale use of EM is cost-effective.

This returned Mr. Rogers back to the question of "specification". What do we want from EM? We presumably want different things when EM is used as a stand-alone punishment and when it is used as one component among several in an intensive supervision programme. Can we actually use EM to help reduce the prison population? Mr. Rogers offered the following advice on how to use EM "more intelligently", points which are of particular relevance to England and Wales themselves:

- supporting intentions to give up offending by being curfewed during 'risky' hours
- introducing a level of stability into chaotic lifestyles
- disrupting specific patterns of offending behaviour such as weekend drinking and night-time burglars
- encouraging attendance at other programmes or community service by being curfewed the night before
- incorporation into an intensive community alternative to prison
- as a penalty for offenders who are unable or unwilling to comply with interventions which require their active participation
- as well as a sanction for offenders who do not require other interventions

He recommended the following ways forward:

- actively managing the use of EM by courts in order to prioritise those offenders most at risk of prison
- more creative and flexible proposals by Probation staff to use the curfew requirement to address offending issues
- improved liaison between Probation staff and EM providers based on the principles of integrated offender management
- more emphasis on promoting offender compliance to minimise breach

Electronic Monitoring and the Surveillance Society

The finally plenary invited the conference to consider the future of probation and EM. **Dr. Kristel Beyens (Professor of Penology, Free University of Brussels)** faced the conference with some uncomfortable questions ... She noted the global expansion of EM, its ever increasing use in more countries - at a range of points in their criminal justice systems - and also the diversification of its forms, especially into GPS tracking. It is “more asked for and more accepted”, she said. Quite why this was so was not so obvious to her. It was not because it had been obviously more effective – or even as effective than existing probation-based community sanctions – and it had certainly not had the effect of significantly reducing prison populations in a way that its policy champions may once have claimed.

She invited consideration of the place of EM in relation to traditional penal aims – retribution, deterrence and rehabilitation - making it clear that there was a certain intrinsic “emptiness” to EM itself, which made it adaptable to a variety of penal philosophies. It could be used in isolation as a punishment, as in England, and it could be used as a component in integrated sentencing packages. She had grave doubts about its value as a stand-alone measure – a “naked sanction” - on anything but a small scale, but she also questioned its role in integrated sentencing packages. Is it simply a “punishment element”, or does it actively support the broader rehabilitative aims of the package itself?

Professor Beyens invited us to consider a bigger picture in respect of EM, and not just to focus narrowly on what its effects on recidivism are, important as that is to practitioners. She asked us to reflect more carefully on the social and political context in which EM had emerged and developed in the past twenty years – and to consider whose interests EM was serving and whose it was threatening. She saw the context of emergence as follows:

- the perceived overburdening of prison systems
- budgetary crises within the state
- the pervasiveness of managerial ideology
- technological developments
- the influence of the private sector lobby

Notwithstanding the good work already undertaken by Anthea Hucklesby on compliance and the work of monitoring officers, more research is needed on the organisational and professional aspects of EM, and on offenders perceptions of it, in

order to see if the realities match with the claims that are made for EM by its commercial and political champions. Studying operational processes matters as much as studying outcomes. We may also be able to gain insights into EM from recent theoretical and empirical developments in prison research (eg by Ben Crewe) which show that the exercise of penal power has become more complicated and subtle, with greater emphasis on encouraging prisoners to cooperate with their own incarceration. Only if we understand more about the organisational structures which support EM will we be able to understand the ways in which EM can and cannot be integrated with probation. She accepted that it was not possible to disinvent EM, and saw that like other community sanctions it could potentially give offenders some space in which to accrue social capital (which helps with desistance), but in working with the private sector to deliver services, probation “has to be very careful”.

In conclusion, Professor Beyens asked the conference to consider EM as a form of “virtual social control” or “virtual power relationship” which reflects and draws on the increasingly “virtual” features of ordinary social and commercial life, ie real-time communication and monitoring via computers which means that influence can be exerted, and data gathered, regardless of the distance between the communicators. Questions of privacy invasion are raised by this form of electronic social control, and as a society we may be more accepting of it because, in the age of Facebook, we seemingly no longer care as much about personal privacy as we used to, and are losing our fear of “Big Brother”. It may be more rather than less stressful for an offender to deal with being controlled “virtually” than by more tangible means like imprisonment or by rehabilitative means like probation. In a criminal justice context EM seemed to Professor Beyens like a new technological permutation of what sociologist Stan Cohen had called “the dispersal of discipline” in that it made forms of penal control both more pervasive and subtle, and blurred the boundaries between imprisonment and confining forms of control in the community. The imposition of too strict time-controls on an offender’s daily life could make being in the community as regimented as being in prison, which in some ways defeats the purposes of having alternatives to prison.

Until such time as we have a better theoretical understanding of the significance EM has as a new form of penal control, Professor Beyens made a number of interim, practical recommendations, based on what we already know about good practice in the rehabilitation of offenders:

- Use EM sparingly at least until we know more about its impact and how best it can be integrated with probation.
- Individualise offender programmes according to their level of risk and need .. and don’t assume that EM is always a necessary element.
- Consider carefully how long EM should be used in individual cases – excessive length may be either too onerous, or too intrusive, or create an unhealthy dependency.
- Avoid intensive community controls (“cocktail measures”) which mix rehabilitative, educational, controlling and punitive elements – they increase the potential for violation and breach

Summing up the Conference

Mr. Leo Tigges, Secretary General of the CEP had chaired the conference throughout, introducing the speakers, highlighting key points from their presentations, and cumulatively making connections between them. He made two points consistently. Firstly, the importance of listening to the work of academics even when their work made practitioners and policy analysts uncomfortable, for example, poor evidence of EM's impact on recidivism, or the need for wariness in dealing with powerful commercial organisations. Secondly, the importance of dialogue between all the agencies – private and public – involved in delivering EM, to ensure that the best possible forms of practice could be achieved. In this respect he commended the continuing value of the CEP- EM conferences and registered his appreciation of the companies who sponsor them. Mr. Tigges particularly welcomed the attendance at the conference of Latin American delegates, and looked forward to continuing dialogue with them.

In closing the conference, **Mr. Marc Ceron, President of CEP**, reminded us that “integration” had been the theme of the event, and that it had been illuminated in many ways, giving us much to think about. It was clear that progress was being made – the possibility of integrating EM and probation in the context of rehabilitation, resettlement and public protection was greater now than it had been, and the CEP EM conferences had played their part in this. Nonetheless, there were still different models of EM use in Europe (and elsewhere in the world) and perhaps more than one way of using it to reduce recidivism. Different countries will find their own way, according to their traditions and structures, and their perception of what is needed, but they can always learn from each other. The pace of change in EM technology is great, and there are bad ways of using it, which the European Rules On Community Sanctions and Measures have sought to check. The need for dialogue among all involved in EM remains vital. Mr. Ceron thanked the Portuguese Department of Social Reinsertion for hosting this event in Évora, the companies for their continuing sponsorship, and like Leo Tigges also welcomed the opportunity for dialogue with Latin American colleagues that this conference had afforded.

Particular thanks must be said to four particular people who were utterly central to the planning, organisation and success of the conference, **Ms. Martine Herschel** and **Ms. Sabine Buth** in CEP, and **Ms. Susana Pinto** and **Ms. Sandra Sampaio Silva** in the Portuguese Probation Service.

The next CEP EM conference will be held in Sweden.